

## ***Federal Energy Policy Act of 2005***

**Excerpt: TAX INCENTIVE PROVISIONS**

### **...TITLE I--ENERGY EFFICIENCY**

#### **...Subtitle C--Conservation and Energy Efficiency Provisions**

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#### **Subtitle C--Conservation and Energy Efficiency Provisions**

### **SEC. 1331. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

(a) In General- Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

#### **`SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

`(a) **In General-** There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

`(b) **Maximum Amount of Deduction-** The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of--

    `(1) the product of--

        `(A) \$1.80, and

        `(B) the square footage of the building, over

    `(2) the aggregate amount of the deductions under subsection (a) with respect to the building for all prior taxable years.

**`(c) Definitions-** For purposes of this section--

**`(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY-** The term

'energy efficient commercial building property' means property--

`(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

`(B) which is installed on or in any building which is--

`(i) located in the United States, and

`(ii) within the scope of Standard 90.1-2001,

`(C) which is installed as part of--

`(i) the interior lighting systems,

`(ii) the heating, cooling, ventilation, and hot water systems, or

`(iii) the building envelope, and

`(D) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 using methods of calculation under subsection (d)(2).

**`(2) STANDARD 90.1-2001-** The term 'Standard 90.1-2001' means Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

**`(d) Special Rules-**

**`(1) PARTIAL ALLOWANCE-**

`(A) IN GENERAL- Except as provided in subsection (f), if--

`(i) the requirement of subsection (c)(1)(D) is not met, but

`(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '\$.60' for '\$1.80'.

**`(B) REGULATIONS-** The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(C) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(D).

`(2) METHODS OF CALCULATION- The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

`(3) COMPUTER SOFTWARE-

`(A) IN GENERAL- Any calculation under paragraph (2) shall be prepared by qualified computer software.

`(B) QUALIFIED COMPUTER SOFTWARE- For purposes of this paragraph, the term 'qualified computer software' means software--

`(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

`(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

`(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

`(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY- In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

`(5) NOTICE TO OWNER- Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

`(6) CERTIFICATION-

`(A) IN GENERAL- The Secretary shall prescribe the manner and method for the making of certifications under this section.

`(B) PROCEDURES- The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

`(C) QUALIFIED INDIVIDUALS- Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

**`(e) Basis Reduction-** For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

**`(f) Interim Rules for Lighting Systems-** Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

**`(1) IN GENERAL-** The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001.

**`(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT-**

**`(A) IN GENERAL-** If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

**`(B) APPLICABLE PERCENTAGE-** For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of--

**`(i)** 50, and

**`(ii)** the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

**`(C) EXCEPTIONS-** This subsection shall not apply to any system--

**`(i)** the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1-2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

**`(ii)** which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

**`(g) Regulations-** The Secretary shall promulgate such regulations as necessary--

**`(1)** to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

**`(2)** to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(D) or (d)(1)(A) is not fully implemented.

**`(h) Termination-** This section shall not apply with respect to property placed in service after December 31, 2007.'

(b) Conforming Amendments-

(1) Section 1016(a) is amended by striking `and' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting `, and', and by adding at the end the following new paragraph:

`(32) to the extent provided in section 179D(e).'

(2) Section 1245(a), as amended by this Act, is amended by inserting `179D,' after `179C,' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence `or by section 179D'.

(4) Section 263(a)(1), as amended by this Act, is amended by striking `or' at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting `, or', and by inserting after subparagraph (J) the following new subparagraph:

`(K) expenditures for which a deduction is allowed under section 179D.'

(5) Section 312(k)(3)(B), as amended by this Act, is amended by striking `179, 179A, 179B, or 179C' each place it appears in the heading and text and inserting `179, 179A, 179B, 179C, or 179D'.

(c) Clerical Amendment- The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

**`Sec. 179D. Energy efficient commercial buildings deduction.'**

(d) Effective Date- The amendments made by this section shall apply to property placed in service after December 31, 2005.

## **SEC. 1332. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.**

(a) In General- Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

### **`SEC. 45L. NEW ENERGY EFFICIENT HOME CREDIT.**

**`(a) Allowance of Credit-**

`(1) IN GENERAL- For purposes of section 38, in the case of an eligible contractor, the new energy efficient home credit for the taxable year is the applicable amount for each qualified new energy efficient home which is--

`(A) constructed by the eligible contractor, and

`(B) acquired by a person from such eligible contractor for use as a residence during the taxable year.

`(2) APPLICABLE AMOUNT- For purposes of paragraph (1), the applicable amount is an amount equal to--

`(A) in the case of a dwelling unit described in paragraph (1) or (2) of subsection (c), \$2,000, and

`(B) in the case of a dwelling unit described in paragraph (3) of subsection (c), \$1,000.

**`(b) Definitions- For purposes of this section—**

- `(1) ELIGIBLE CONTRACTOR- The term `eligible contractor' means--
  - `(A) the person who constructed the qualified new energy efficient home, or
  - `(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.
- `(2) QUALIFIED NEW ENERGY EFFICIENT HOME- The term `qualified new energy efficient home' means a dwelling unit--
  - `(A) located in the United States,
  - `(B) the construction of which is substantially completed after the date of the enactment of this section, and
  - `(C) which meets the energy saving requirements of subsection (c).
- `(3) CONSTRUCTION- The term `construction' includes substantial reconstruction and rehabilitation.
- `(4) ACQUIRE- The term `acquire' includes purchase.

**`(c) Energy Saving Requirements- A dwelling unit meets the energy saving requirements of this subsection if such unit is—**

- `(1) certified--
  - `(A) to have a level of annual heating and cooling energy consumption which is at least 50 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit--
    - `(i) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and
    - `(ii) for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of completion of construction, and
  - `(B) to have building envelope component improvements account for at least 1/5 of such 50 percent,
- `(2) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which meets the requirements of paragraph (1), or
- `(3) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which--
  - `(A) meets the requirements of paragraph (1) applied by substituting `30 percent' for `50 percent' both places it appears therein and by substituting ` 1/3 ' for ` 1/5 ' in subparagraph (B) thereof, or

`(B) meets the requirements established by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

**`(d) Certification-**

`(1) **METHOD OF CERTIFICATION-** A certification described in subsection (c) shall be made in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

`(2) **FORM-** Any certification described in subsection (c) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

`(e) **Basis Adjustment-** For purposes of this subtitle, if a credit is allowed under this section in connection with any expenditure for any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

`(f) **Coordination With Investment Credit-** For purposes of this section, expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

`(g) **Termination-** This section shall not apply to any qualified new energy efficient home acquired after December 31, 2007.'

(b) **Credit Made Part of General Business Credit-** Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking 'plus' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ', plus', and by adding at the end the following new paragraph:

`(23) the new energy efficient home credit determined under section 45L(a).'

(c) **Basis Adjustment-** Subsection (a) of section 1016, as amended by this Act, is amended by striking 'and' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ', and', and by adding at the end the following new paragraph:

`(33) to the extent provided in section 45L(e), in the case of amounts with respect to which a credit has been allowed under section 45L.'

(d) **Deduction for Certain Unused Business Credits-** Section 196(c) (defining qualified business credits) is amended by striking 'and' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ', and', and by adding after paragraph (12) the following new paragraph:

`(13) the new energy efficient home credit determined under section 45L(a).'

(e) **Clerical Amendment-** The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

**`Sec. 45L. New energy efficient home credit.'**

(f) Effective Date- The amendments made by this section shall apply to qualified new energy efficient homes acquired after December 31, 2005, in taxable years ending after such date.

**SEC. 1333. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.**

(a) In General- Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

**`SEC. 25C. NONBUSINESS ENERGY PROPERTY.**

**`(a) Allowance of Credit-** In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

    `(1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

    `(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

**`(b) Limitations-**

    `(1) LIFETIME LIMITATION- The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed the excess (if any) of \$500 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

    `(2) WINDOWS- In the case of amounts paid or incurred for components described in subsection (c)(3)(B) by any taxpayer for any taxable year, the credit allowed under this section with respect to such amounts for such year shall not exceed the excess (if any) of \$200 *over the aggregate credits allowed under this section with respect to such amounts for all prior taxable years.*

    `(3) LIMITATION ON RESIDENTIAL ENERGY PROPERTY EXPENDITURES- The amount of the credit allowed under this section by reason of subsection (a)(2) shall not exceed--

        `(A) \$50 for any advanced main air circulating fan,

        `(B) \$150 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

        `(C) \$300 for any item of energy-efficient building property.

**`(c) Qualified Energy Efficiency Improvements\_** For purposes of this section--



`(1) IN GENERAL- The term `qualified energy efficiency improvements' means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if--

`(A) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

`(B) the original use of such component commences with the taxpayer, and

`(C) such component reasonably can be expected to remain in use for at least 5 years.

`(2) BUILDING ENVELOPE COMPONENT- The term `building envelope component' means--

`(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

`(B) exterior windows (including skylights),

`(C) exterior doors, and

`(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

`(3) MANUFACTURED HOMES INCLUDED- The term `dwelling unit' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

**`(d) Residential Energy Property Expenditures-** For purposes of this section--

`(1) IN GENERAL- The term `residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property which is--

`(A) installed on or in connection with a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121), and

`(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

`(2) QUALIFIED ENERGY PROPERTY-

`(A) IN GENERAL- The term `qualified energy property' means--

`(i) energy-efficient building property,

`(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or

`(iii) an advanced main air circulating fan.

`(B) PERFORMANCE AND QUALITY STANDARDS- Property described under subparagraph (A) shall meet the performance and quality standards, and the certification requirements (if any), which--

`(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate), and

`(ii) are in effect at the time of the acquisition of the property, or at the time of the completion of the construction, reconstruction, or erection of the property, as the case may be.

`(C) REQUIREMENTS FOR STANDARDS- The standards and requirements prescribed by the Secretary under subparagraph (B)--

`(i) in the case of the energy efficiency ratio (EER) for central air conditioners and electric heat pumps--

`(I) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

`(II) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency, and

`(ii) in the case of geothermal heat pumps--

`(I) shall be based on testing under the conditions of ARI/ISO Standard 13256-1 for Water Source Heat Pumps or ARI 870 for Direct Expansion GeoExchange Heat Pumps (DX), as appropriate, and

`(II) shall include evidence that water heating services have been provided through a desuperheater or integrated water heating system connected to the storage water heater tank.

`(3) ENERGY-EFFICIENT BUILDING PROPERTY- The term 'energy-efficient building property' means--

`(A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

`(B) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13,

`(C) a geothermal heat pump which--

`(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

`(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

`(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

`(D) a central air conditioner which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2006, and

`(E) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

`(4) **QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER-** The term `qualified natural gas, propane, or oil furnace or hot water boiler' means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.

`(5) **ADVANCED MAIN AIR CIRCULATING FAN-** The term `advanced main air circulating fan' means a fan used in a natural gas, propane, or oil furnace and which has an annual electricity use of no more than 2 percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

**`(e) Special Rules- For purposes of this section—**

`(1) **APPLICATION OF RULES-** Rules similar to the rules under paragraphs (4), (5), (6), (7), (8), and (9) of section 25D(e) shall apply.

`(2) **JOINT OWNERSHIP OF ENERGY ITEMS-**

`(A) **IN GENERAL-** Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to two or more dwelling units.

`(B) **LIMITS APPLIED SEPARATELY-** In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

**`(f) Basis Adjustments-** For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

**`(g) Termination-** This section shall not apply with respect to any property placed in service after December 31, 2007.'

**(b) Conforming Amendments-**

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking `and' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting `, and', and by adding at the end the following new paragraph:

`(34) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.'

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

**`Sec. 25C. Nonbusiness energy property.'**

(c) **Effective Dates-** The amendments made by this section shall apply to property placed in service after December 31, 2005.

## **SEC. 1334. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

(a) In General- Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

### **`SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.**

#### **`(a) General Rule-**

`(1) IN GENERAL- For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

`(2) CREDIT AMOUNTS- The credit amount determined for any type of qualified energy efficient appliance is--

- `(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by
- `(B) the eligible production for such type.

#### **`(b) Applicable Amount-**

`(1) IN GENERAL- For purposes of subsection (a)--

`(A) DISHWASHERS- The applicable amount is the energy savings amount in the case of a dishwasher which--

- `(i) is manufactured in calendar year 2006 or 2007, and
- `(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

`(B) CLOTHES WASHERS- The applicable amount is \$100 in the case of a clothes washer which--

- `(i) is manufactured in calendar year 2006 or 2007, and
- `(ii) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007.

`(C) REFRIGERATORS-

`(i) 15 PERCENT SAVINGS- The applicable amount is \$75 in the case of a refrigerator which--

- `(I) is manufactured in calendar year 2006, and
- `(II) consumes at least 15 percent but not more than 20 percent less kilowatt hours per year than the 2001 energy conservation standards.

`(ii) 20 PERCENT SAVINGS- The applicable amount is \$125 in the case of a refrigerator which--

- `(I) is manufactured in calendar year 2006 or 2007, and
- `(II) consumes at least 20 percent but not more than 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

`(iii) 25 PERCENT SAVINGS- The applicable amount is \$175 in the case of a refrigerator which--

`(I) is manufactured in calendar year 2006 or 2007, and

`(II) consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

`(2) ENERGY SAVINGS AMOUNT- For purposes of paragraph (1)(A)--

`(A) IN GENERAL- The energy savings amount is the lesser of--

`(i) the product of--

`(I) \$3, and

`(II) 100 multiplied by the energy savings percentage, or

`(ii) \$100.

`(B) ENERGY SAVINGS PERCENTAGE- For purposes of subparagraph (A), the energy savings percentage is the ratio of--

`(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

`(ii) the EF required by the Energy Star program for dishwashers in 2007.

**`(c) Eligible Production-**

`(1) IN GENERAL- Except as provided in paragraphs (2), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of--

`(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

`(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

`(2) SPECIAL RULE FOR REFRIGERATORS- The eligible production in a calendar year with respect to each type of refrigerator described in subsection

(b)(1)(C) is the excess of--

`(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

`(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

**`(d) Types of Energy Efficient Appliance-** For purposes of this section, the types of energy efficient appliances are—

`(1) dishwashers described in subsection (b)(1)(A),

`(2) clothes washers described in subsection (b)(1)(B),

`(3) refrigerators described in subsection (b)(1)(C)(i),

`(4) refrigerators described in subsection (b)(1)(C)(ii), and

`(5) refrigerators described in subsection (b)(1)(C)(iii).

**`(e) Limitations-**

`(1) AGGREGATE CREDIT AMOUNT ALLOWED- The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

`(2) AMOUNT ALLOWED FOR 15 PERCENT SAVINGS REFRIGERATORS- In the case of refrigerators described in subsection (b)(1)(C)(i), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$20,000,000.

`(3) LIMITATION BASED ON GROSS RECEIPTS- The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

`(4) GROSS RECEIPTS- For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

**`(f) Definitions- For purposes of this section—**

`(1) QUALIFIED ENERGY EFFICIENT APPLIANCE- The term `qualified energy efficient appliance' means--

- `(A) any dishwasher described in subsection (b)(1)(A),
- `(B) any clothes washer described in subsection (b)(1)(B), and
- `(C) any refrigerator described in subsection (b)(1)(C).

`(2) DISHWASHER- The term `dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

`(3) CLOTHES WASHER- The term `clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

`(4) REFRIGERATOR- The term `refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

`(5) EF- The term `EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

`(6) PRODUCED- The term `produced' includes manufactured.

`(7) 2001 ENERGY CONSERVATION STANDARD- The term `2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

**`(g) Special Rules-** For purposes of this section—

**`(1) IN GENERAL-** Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

**`(2) CONTROLLED GROUP-**

**`(A) IN GENERAL-** All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

**`(B) INCLUSION OF FOREIGN CORPORATIONS-** For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

**`(3) VERIFICATION-** No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.'

(b) Conforming Amendment- Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking 'plus' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ', plus', and by adding at the end the following new paragraph:

**`(24)** the energy efficient appliance credit determined under section 45M(a).'

(c) Clerical Amendment- The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

**`Sec. 45M. Energy efficient appliance credit.'**

(d) Effective Date- The amendments made by this section shall apply to appliances produced after December 31, 2005.

## **SEC. 1335. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

(a) In General- Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

### **`SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

**`(a) Allowance of Credit-** In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of--

**`(1)** 30 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

**`(2)** 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year, and

`(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

**`(b) Limitations-**

`(1) MAXIMUM CREDIT- The credit allowed under subsection (a) for any taxable year shall not exceed--

`(A) \$2,000 with respect to any qualified photovoltaic property expenditures,

`(B) \$2,000 with respect to any qualified solar water heating property expenditures, and

`(C) \$500 with respect to each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

`(2) CERTIFICATION OF SOLAR WATER HEATING PROPERTY- No credit shall be allowed under this section for an item of property described in subsection (d)(1) unless such property is certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed.

**`(c) Carryforward of Unused Credit-** If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

**`(d) Definitions- For purposes of this section—**

`(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE- The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

`(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE- The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

`(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE- The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

**`(e) Special Rules- For purposes of this section—**



`(1) LABOR COSTS- Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in subsection (d) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

`(2) SOLAR PANELS- No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (d) solely because it constitutes a structural component of the structure on which it is installed.

`(3) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM- Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

`(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY- In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

`(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

`(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

`(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (d).

`(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION- In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

`(6) CONDOMINIUMS-

`(A) IN GENERAL- In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

`(B) CONDOMINIUM MANAGEMENT ASSOCIATION- For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c)

(other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

`(7) **ALLOCATION IN CERTAIN CASES-** If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

`(8) **WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE-**

`(A) **IN GENERAL-** Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

`(B) **EXPENDITURES PART OF BUILDING CONSTRUCTION-** In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

`(9) **PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING-** For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

`(f) **Basis Adjustments-** For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

`(g) **Termination-** The credit allowed under this section shall not apply to property placed in service after December 31, 2007.'.

(b) **Conforming Amendments-**

(1) Section 23(c) is amended by striking `this section and section 1400C' and inserting `this section, section 25D, and section 1400C'.

(2) Section 25(e)(1)(C) is amended by striking `this section and sections 23 and 1400C' and inserting `other than this section, section 23, section 25D, and section 1400C'.

(3) Section 1400C(d) is amended by striking `this section' and inserting `this section and section 25D'.

(4) Section 1016(a), as amended by this Act, is amended by striking `and' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting `, and', and by adding at the end the following new paragraph:

`(35) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.'.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

`**Sec. 25D. Residential energy efficient property.**'.

(c) Effective Dates- The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

## **SEC. 1336. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.**

**(a) In General-** Section 48(a)(3)(A) (defining energy property) is amended by striking `or' at the end of clause (i), by adding `or' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

`(iii) qualified fuel cell property or qualified microturbine property,'.

**(b) Qualified Fuel Cell Property; Qualified Microturbine Property-** Section 48 (relating to energy credit) is amended by adding at the end the following new subsection:

**`(c) Qualified Fuel Cell Property; Qualified Microturbine Property-** For purposes of this subsection--

`(1) QUALIFIED FUEL CELL PROPERTY-

`(A) IN GENERAL- The term `qualified fuel cell property' means a fuel cell power plant which--

`(i) has a nameplate capacity of at least 0.5 kilowatt of electricity using an electrochemical process, and

`(ii) has an electricity-only generation efficiency greater than 30 percent.

`(B) LIMITATION- In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to \$500 for each 0.5 kilowatt of capacity of such property.

`(C) FUEL CELL POWER PLANT- The term `fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

`(D) SPECIAL RULE- The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified fuel cell property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

`(E) TERMINATION- The term `qualified fuel cell property' shall not include any property for any period after December 31, 2007.

`(2) QUALIFIED MICROTURBINE PROPERTY-

`(A) IN GENERAL- The term `qualified microturbine property' means a stationary microturbine power plant which--

`(i) has a nameplate capacity of less than 2,000 kilowatts, and

`(ii) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

`(B) LIMITATION- In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal \$200 for each kilowatt of capacity of such property.

`(C) STATIONARY MICROTURBINE POWER PLANT- The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

`(D) SPECIAL RULE- The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified microturbine property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

`(E) TERMINATION- The term 'qualified microturbine property' shall not include any property for any period after December 31, 2007.'

**(c) Energy Percentage-** Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

`(A) IN GENERAL- The energy percentage is--

`(i) in the case of qualified fuel cell property, 30 percent, and

`(ii) in the case of any other energy property, 10 percent.'

**(d) Conforming Amendment-** Section 48(a)(1) is amended by inserting 'except as provided in paragraph (1)(B) or (2)(B) of subsection (d),' before 'the energy'.

**(e) Effective Date-** The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

## **SEC. 1337. BUSINESS SOLAR INVESTMENT TAX CREDIT.**

**(a) Increase in Energy Percentage-** Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended to read as follows:

`(A) IN GENERAL- The energy percentage is--

`(i) 30 percent in the case of--

`(I) qualified fuel cell property,

`(II) energy property described in paragraph (3)(A)(i) but only with respect to periods ending before January 1, 2008, and  
` (III) energy property described in paragraph (3)(A)(ii), and  
` (ii) in the case of any energy property to which clause (i) does not apply, 10 percent.'.

**(b) Hybrid Solar Lighting Systems-** Subparagraph (A) of section 48(a)(3) is amended by striking `or' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

`(ii) equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight but only with respect to periods ending before January 1, 2008, or'.

**(c) Limitation on Use of Solar Energy to Heat Swimming Pools-** Clause (i) of section 48(a)(3)(A) is amended by inserting `excepting property used to generate energy for the purposes of heating a swimming pool,' after `solar process heat,'.

**(d) Effective Date-** The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).